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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/556,009

11/08/2005

Johannes Petrus Maria Ansems

NL030699US1

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10/20/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

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EXAMINER

HOLLWEG, THOMAS A

ART UNIT

PAPER NUMBER

2879

MAIL DATE

DELIVERY MODE

10/20/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/556,009	<b>Applicant(s)</b> ANSEMS ET AL.	
	<b>Examiner</b> Thomas A. Hollweg	<b>Art Unit</b> 2879	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Acknowledgement of Amendment***

1. Applicant's Amendment, received June 17, 2008, is acknowledged. No claims are cancelled or added. Claims 1-10 are currently pending.
2. Amendment to claim 10, correcting improper dependency, is acknowledged. Objections to claim 10 are withdrawn.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1-2, 5-7 and 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Tiesler-Wittig, U.S. Patent Application Publication No. 2003/0031026 A1.
5. With regard to claim 1, in figures 1, 1a, 2 & 2 a, Tiesler-Wittig discloses a metal halide lamp (10) for a vehicle headlamp [0001] comprising: a cylindrically-shaped discharge vessel (16) along a longitudinal axis, said discharge vessel (16) having a ceramic wall which encloses a discharge space comprising Xe and an ionizable filling, and a cylindrically-shaped outer bulb (20) surrounding the discharge vessel (16) along

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the longitudinal axis, characterized in that a portion (30) of the surface of the outer bulb (20) facing away from the discharge vessel (16) is shaped as a negative lens [0035-0040] (the sift effect of the lens (30) is a result of at least a portion of the lens being a negative lens).

6. With regard to claim 2, in figures 1, 1a, 2 and 2a, Tiesler-Wittig discloses that the portion (30) with respect to the longitudinal axis encompasses a segment of the outer bulb (20) with a segment angle  $\alpha$  in the range between  $20 \leq \alpha \leq 110^\circ$  [0036].

7. With regard to claim 5, in figures 1, 1a, 2 and 2a, Tiesler-Wittig discloses that a first and a second portion (30) of the surface of the outer bulb (20) facing away from the discharge vessel (16) are shaped as a negative lens [0040] (the sift effect of the lens (30) is a result of at least a portion of the lens being a negative lens).

8. With regard to claim 6, in figures 1, 1a, 2 and 2a, Tiesler-Wittig discloses that the first and the second portion (30) are at opposite sides of the outer bulb (20).

9. With regard to claim 7, in figures 1, 1a, 2 and 2a, Tiesler-Wittig discloses that the transition between the first portion (30) and the remainder of the outer bulb (20) defines a first plane, in that the transition between the second portion (30) and the remainder of the outer bulb (20) defines a second plane, and in that the first plane and the second plane make an angle with respect to each other which is equal to or less than  $10^\circ$ .

10. With regard to claim 9, in figures 3 and 4, Tiesler-Wittig discloses a vehicle headlamp (40) comprising a reflector (42) and a metal halide lamp (10) as claimed in claim 1 [0041].

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11. With regard to claim 10, in figures 1, 1a, 2 and 2a, Tiesler-Wittig discloses that the portions (30) forming the negative lenses are oriented in the direction of portions of the reflector (42) creating a cut-off between the illuminated area and the glare area according to requirements for automotive passing beam patterns [0041-0052].

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiesler-Wittig as applied to claim 1 above, in view of itself.

14. With regard to claim 3, all of the limitations are disclosed by Tiesler-Wittig, as discussed in the rejection of claim 1, except Tiesler-Wittig does not expressly disclose that the portion forming the negative lens comprises a flat surface. However, Tiesler-Wittig teaches that the purpose of lens elements (30) is to optically alter the image of the light source in order to alter the light distribution properties of the light reflected and projected in front of a vehicle [0013-0016].

15. As taught by Tiesler-Wittig, one having ordinary skill in the art would understand that that the portion forming the negative lens could comprise a flat surface to optically

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alter the image of the light source in a preferred way, to improve the light distribution properties of the lamp.

16. Therefore, at the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the lamp disclosed in Tiesler-Wittig characterized in that the portion forming the negative lens comprises a flat surface, in order to optically alter the image of the light source so that the light distribution properties of the lamp are improved, as taught by Tiesler-Wittig.

17. With regard to claim 4, all of the limitations are disclosed by Tiesler-Wittig, as discussed in the rejection of claim 1, except Tiesler-Wittig does not expressly disclose that the portion forming the negative lens comprises a curved surface which is less curved than the curvature of the remainder of the outer bulb. However, Tiesler-Wittig teaches that the purpose of lens elements (30) is to optically alter the image of the light source in order to alter the light distribution properties of the light reflected and projected in front of a vehicle [0013-0016].

18. As taught by Tiesler-Wittig, one having ordinary skill in the art would understand that that the portion forming the negative lens could comprise a curved surface which is less curved than the curvature of the remainder of the outer bulb to optically alter the image of the light source in a preferred way, to improve the light distribution properties of the lamp.

19. Therefore, at the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the lamp disclosed in Tiesler-Wittig characterized in that the portion forming the negative lens comprises a curved surface

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which is less curved than the curvature of the remainder of the outer bulb, in order to optically alter the image of the light source so that the light distribution properties of the lamp are improved, as taught by Tiesler-Wittig.

20. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tiesler-Wittig as applied to claims 1 and 5 above, in view of Vitt et al., U.S. Patent Application Publication No. 2004/0156984 A1.

21. All of the limitations of claim 8 are disclosed by Tiesler-Wittig, as discussed in the rejection of claim 5 above, including that the outer bulb functions to alter the emission from the discharge vessel, including to filter out UV radiation [0003]. However, Tiesler-Wittig does not expressly disclose that at least one of the portions forming the negative lens has anti-reflective properties. Vitt, in figures 11a-c, teaches a glass coating that provides for UV filter and anti-reflective properties, in order to ensure high efficiency of emission of visible light.

22. At the time of invention, it would have been obvious for a person having ordinary skill in the art to construct the Tiesler-Wittig lamp with the coating, taught by Vitt, so that at least one of the portions forming the negative lens has anti-reflective properties. This coating would provide highly efficient emission of visible light.

### ***Double Patenting***

23. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

24. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

25. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

26. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of allowed U.S. Patent Application No. 10/556003 (Inventors: Kupper & Springer, notice of allowance sent 9/19/08) (hereinafter



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"Kupper patent"). The allowed application and the present application have no common inventors but are assigned to the same assignee, Koninklijke Philips Electronics, N.V.

27. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the Kupper patent contains all of the limitations of the present claim 1, except that the Kupper patent claim 1 claims a quartz bulb and the present claim 1 claims the obvious alternative of a ceramic bulb.

### ***Response to Arguments***

28. Claim 1 claims simply that "a portion of a surface of the outer bulb facing away from the discharge vessel is shaped as a negative lens" (citations omitted). Applicant argues that the prior art relied upon by examiner for the 35 USC 102(b) rejection of claim 1, Tiesler-Wittig, does not disclose, either expressly or inherently, this limitation.

29. Examiner acknowledges that Tiesler-Wittig does not expressly use the designation "negative lens," however, in virtually sifting the location of the gas discharge, at least a portion of the lens (30) on the outer bulb (20) must be shaped as a negative lens. Therefore, the above quoted limitation is inherently disclosed by Tiesler-Wittig.

30. Applicant argues that the negative lens of claim 1, results in "the inner discharge vessel having a smaller virtual size than its actual size." It is improper to import this limitation from the specification into the claim, to further limit the shape and effect of the

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claimed negative lens (MPEP 2111.01). Therefore, this argument is not found to be persuasive.

### ***Conclusion***

31. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

32. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

33. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A. Hollweg whose telephone number is (571) 270-1739. The examiner can normally be reached on Monday through Friday 7:30am-5:00pm E.S.T..

34. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on (571) 272-2457. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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35. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TH/

/NIMESHKUMAR D. PATEL/

Supervisory Patent Examiner, Art Unit 2879